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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/154,274	09/16/1998	ZOLTMAN G. TURI	BTG-5001	6727

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FOLEY AND LARDNER
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EXAMINER

THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/154,274

Applicant(s)

TURI, ZOLTMAN G.

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28-32, 38-47, 49-51, 53-57, 61-63, 66-72, 74-78, 84-91, 94-96, 98-102, 106-108, 111-143, 145-172, 176-180, 190-194 and 202-205 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1-26,28-32,38-47,49-51,53-57,61-63,66-72,74-78,84-91,94-96,98-102,106-108,111-143,145-172,176-180,190-194 and 202-205.

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Claims 1, (5-7)/1, 10/1, 12-15, 16/(1, 12, 13, 15), 17/(1, 12, 13, 15), 18, 19, 22-26, 29, 38-44, 49-51, 54, 61, 62, 66-72, 75, 84-90, 94-96, 106, 107, 111-121, 123, 125-133, 135, 137-143, 145-156, 158, 160-170, 172, 176-180, 190-194 and 202-205 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg (5,665,115) in view of Winston et al. (5,366,473) and Dardik et al. (3,988,782). Cragg discloses a cylindrical-shaped member 10, a graft 13 within the passage of the cylindrical-shaped member 10 and securing means (the hoop members described in col. 3, lines 22-23). Cragg discloses the graft 13 as being a synthetic material rather than a blood vessel. However, Cragg teaches that material of the graft may be "any other suitable biocompatible material" (col. 3, line 21-22). Further, Winston et al. teach that a graft 26 attached to a stent 20 may be a blood vessel instead of a synthetic material (col. 3, lines 49-52). This arrangement has the self-evident advantage of improving the biocompatibility of the assembly. In support of this position, Dardik et al. is cited (as an example) as evidence that it is self-evident and old and well known that natural arteries and veins used for grafts are more biocompatible than synthetic vascular grafts (col. 1, line 15 to col. 2, line 63). It would have been obvious to use a blood vessel as the Cragg graft 13 so that it too would have this

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advantage. As to claims 5-7, for example, Cragg fails to disclose the specific stent structures. However, the claimed stent structures are old and well known as admitted by applicant (figures 2, 3, 8 and 9 of applicant's disclosure) and have the advantage of providing a large expansion force. It would have been obvious to use the admittedly old stent structures for the Cragg stent 10 so that it too would have this advantage. As to claim 13, for example, Cragg discloses expansion means in col. 4, lines 24-26.

Claims 2-4, (5-7)/4, 8, 9, 10/4, 11, 16/(3, 4, 11), 17/3, 20, 21, 28, 30-32, 45-47, 53, 55-57, 63, 74, 76-78, 91, 98-102, 108, 122, 124, 134, 136, 157 and 159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg (5,665,115) in view of Winston et al. (5,366,473) as applied to claims 1, (5-7)/1, 10/1, 12-15, 16/(1, 12, 13, 15), 17/(1, 12, 13, 15), 18, 19, 22-26, 29, 38-44, 49-51, 54, 61, 62, 66-72, 75, 84-90, 94-96, 106, 107, 111-121, 123, 125-133, 135, 137-143, 145-156, 158, 160-170, 172, 176-180, 190-194 and 202-205 above, and further in view of Buirge et al. (5,693,085). As to claims 2 and 3, for example, Cragg fails to disclose the graft extending beyond and folded over at least one of the ends of the cylindrical-shaped member. However, Buirge et al. teach that a graft should be so attached to the stent apparently in order to form a good

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connection between the two (col. 10, lines 58-65). It would have been obvious to so attach the Cragg graft to the stent so that it too would have this advantage. As to claims 8 and 9, for example, Cragg fails to disclose the securing means (col. 3, lines 22-23) as glue or welds. However, Buirge et al. teach that a graft should be so attached to the stent apparently in order to form a good connection between the two (col. 11, lines 2-4). It would have been obvious to so attach the Cragg graft to the stent so that it too would have this advantage.

Applicant's arguments filed Feb. 11, 2005 have been fully considered but they are not persuasive. Winston et al. clearly teach that a graft 26 attached to a stent 20 may be a blood vessel instead of a synthetic material (col. 3, lines 49-52). This has the self-evident advantage of improving the biocompatibility of the assembly since a blood vessel is made of tissue instead of synthetic material. It would have been obvious to use a blood vessel as the Cragg graft 13 so that it too would have this advantage. Although there may be disadvantages as well as advantages for using a blood vessel instead of synthetic material, Winston et al. clearly teach that either material may be used with a stent and one of ordinary skill in the art would have found it desirable to use a blood vessel in order to obtain the advantages of it. In response to

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applicant's challenge (page 29 of the response) of the examiner's position that it is self-evident that natural arteries and veins used for grafts are more biocompatible than synthetic vascular grafts, Dardik et al. is cited as evidence that it is old and well known that that natural arteries and veins used for grafts are more biocompatible than synthetic vascular grafts.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael

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Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht
5/12/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731